



1761

JF

July 8, 2005

Timothy J. Sinnott B.S., M.Sc. (Phys.), LL.B.
416 957 1694 tsinnott@bereskinparr.comYour Reference: 10/028,666
Our Reference: 9973-17**REQUEST FOR REINSTATEMENT**

The Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
U.S.A.

ATTENTION: GROUP ART UNIT 1761

Dear Sir:

Re: United States Divisional Application Serial No. 10/028,666
Filed: December 28, 2001
Entitled: DISPLAY PACKAGING FOR FRUITS OR VEGETABLES
Inventor: Emmett M. Flynn

We hereby request that the Examiner withdraw the holding of abandonment based on failure to receive an Office Action which appears to have occurred in connection with the above-noted application. The relevant facts are set out below. This request is being filed in accordance with the procedures set out in the Manual of Patent Examining Procedure, section 37 CFR 1.181 1.A.

After conducting the searches as set out hereinbelow, applicant's agent is satisfied that the Office Action apparently mailed September 16, 2004, was not received by the undersigned firm.

All correspondence received by this firm from any Patent Office, including the U.S. Patent and Trademark Office, is first opened by the firm's mailroom staff. Upon opening the correspondence, the firm's staff trained for this purpose reviews the correspondence to determine whether any due dates for response are set out in the correspondence. When it is determined that a due date does exist, the due date is entered against the file in the firm's computer docketing system. If the due date had been entered against the above-noted application, then it would have appeared in our firm's due date system under our firm's file number 9973-17 which is the firm's file identified number (attorney docket number).

A copy of a printout of the firm's computerized records for this application is attached to this request. The first page of the printout identifies the application by reference to various parameters including our file number, the client name, official title of the invention and the like. At the middle of page 1, there is an area entitled Due Dates. It will be observed that there is only one "check" due date entered against this application for ensuring that the request for reinstatement is filed. At the bottom of page 1 of the printout and continuing on page 2 is an area which identifies the Due Date History of the file. In this particular case, the due date history shows 19 entries in the due date history beginning with a due date entry for filing an information disclosure statement (March 28, 2002 entry). There are four entries for actions entered with due dates in the year 2002. There are five entries for actions entered with due dates in the year 2003. There are 10 entries for actions entered with due dates in the year 2004 beginning with an Office Action extension due date of January 4, 2004. There is no indication in connection with the due date history that any Office Action due on October 16, 2004 was received or marked as having been done.

An examination was conducted of the appropriate files. There is no copy of an office action mailed September 16, 2004 with a due date of October 16, 2004 in this file. In addition to searching the file of the present application, a search was conducted of all other active files for this client to check against an inadvertent filing of the Office Action in some other file for the client. That check has also failed to locate any Office Action pertinent to this file.

As a further check, we then checked the firm's records for due dates entered showing a due date of October 16, 2004. A copy of our firm's due date report printed on October 15, 2004, which lists all due dates in our computer system for that date is attached and titled "Saba's US Foreign Due Date Report – Due Date Report for the Period October 16, 2004 to October 18, 2004". We have masked out the client names and matter names for confidentiality purposes, but as can be seen, none of the attorney docket numbers (Client/Matter #) relate to the applicant (our attorney docket number 9973-17).

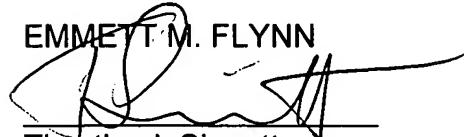
Having conducted all of these checks, I am satisfied that we did not receive the Office Action. If we had received the Office Action, it would have been entered into our firm's due date system which has not been done. If the Office Action had been received and inadvertently misfiled, it would have been filed in either its proper file or another file for this client and no such misfiling appears to have occurred. In all of the circumstances, I am satisfied that our firm did not receive the Office Action identified. In view of the foregoing, the undersigned respectfully petitions that the holding of abandonment be withdrawn and that a copy of the outstanding Office Action be mailed to the undersigned for response in due course.

This statement is made by the undersigned who declares that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements are made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of the Title 18 of the U.S. Code and that

such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

EMMETT M. FLYNN



Timothy J. Sinnott

Registration No. 31,083

/hs

Encl.

Patent Cases

Client & Matter No.	009973 -A- 0000017	Status	<input checked="" type="radio"/> Active <input type="radio"/> Inactive	Last Modified	Jun 29, 2005
Client Billing Ref.	Emmett M. Flynn				ID = 120760
Cl. Form Letter Ref.	Emmett M. Flynn				

Client Name	Flynn, Emmett	Type	DC
Client Title	DISPLAY PACKAGING FOR FRUIT OR VEGETABLES (DIV.)	Status	

Official Title	DISPLAY PACKAGING FOR FRUIT OR VEGETABLES
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Applicant No.	FLYNN	Applicant Name	Flynn Produce Ltd.
Assignee No.		Assignee Name	
Associate No.		Associate Name	

Case Type	P	Originating Appl'n	<input checked="" type="radio"/> Yes <input type="radio"/> No	Filing Date	Dec 28, 2001
Country	US	Convention Claimed	<input checked="" type="radio"/> Yes <input type="radio"/> No	Serial No.	10/028666
Lawyer Resp.	154	PCT Application	<input checked="" type="radio"/> Yes <input type="radio"/> No	Reg'n Date	00/00/00
Lawyer Assigned		Small Entity	<input checked="" type="radio"/> Yes <input type="radio"/> No	Reg'n No.	
Paralegal		Info. Disclos. Filed	<input checked="" type="radio"/> Yes <input type="radio"/> No	Publ'n Date	00/00/00
PCT Chapter		Missing Parts Req'd	<input checked="" type="radio"/> Yes <input type="radio"/> No	Assign. Date	00/00/00
		Main. Fee Reminder	<input checked="" type="radio"/> Yes <input type="radio"/> No	Assign. No.	
		Instructions Req'd	<input checked="" type="radio"/> Yes <input type="radio"/> No	Status Due	Sep 18, 2005

Due Dates: 1

Due Date	Action	Instr.	Base Date	o/r	Comments
Aug 14, 2005	CHECK	<input checked="" type="checkbox"/>	00/00/00	<input checked="" type="checkbox"/>	- (REQUEST FOR REINSTATEMENT FILED?)

Inventors	Emmett M. Flynn
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Comments	
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Assoc. Ref.		Priority/Basis (CP) ...	Parent File (PF) ...
Examiner		Country CA	Country US
Division		Filing Date Dec 1, 1999	Filing Date Mar 23, 2000
Floor		Serial No. 2291604	Serial No. 09/533692
Class		Reference	Reference
Sub Class			
Group/Batch		Date Opened Dec 14, 2001	Date Closed 00/00/00

Accounting			
Office	<input checked="" type="checkbox"/>	Cross Ref. No.	
Format	1	Taxable	<input checked="" type="radio"/> Yes <input type="radio"/> No
Currency	1	Interest	<input checked="" type="radio"/> Yes <input type="radio"/> No
Industry		Billing Address	Attention Line & Billing Address (if not client address)

Due Date History: 19

Due Date	Action	Instr.	Date Done	o/r	Approv.	Reason Removed
Mar 28, 2002	INFODS	<input checked="" type="checkbox"/>	00/00/00	<input checked="" type="checkbox"/>	154	DONE
Apr 28, 2002	FRRECD	<input checked="" type="checkbox"/>	00/00/00	<input checked="" type="checkbox"/>	154	RECD
Sep 30, 2002	OARECD	<input checked="" type="checkbox"/>	00/00/00	<input checked="" type="checkbox"/>	154	EXTEND
Dec 28, 2002	FA	<input checked="" type="checkbox"/>	00/00/00	<input checked="" type="checkbox"/>	154	NOTDO
Jun 28, 2003	OARECD	<input checked="" type="checkbox"/>	00/00/00	<input checked="" type="checkbox"/>	154	EXTEND
Sep 18, 2003	CHECK	<input checked="" type="checkbox"/>	Oct 1, 2003	<input checked="" type="checkbox"/>	154	REMSEN
Oct 18, 2003	OA3	<input checked="" type="checkbox"/>	Oct 17, 2003	<input checked="" type="checkbox"/>	154	EXTEND
Nov 18, 2003	1STEXT	<input checked="" type="checkbox"/>	Nov 18, 2003	<input checked="" type="checkbox"/>	019	DB&A
Dec 28, 2003	OARECD	<input checked="" type="checkbox"/>	Jul 29, 2003	<input checked="" type="checkbox"/>	019	RECD
Jan 4, 2004	OAEKT	<input checked="" type="checkbox"/>	00/00/00	<input checked="" type="checkbox"/>	154	DONE

Patent Cases

Due Date	Action	Instr.	Date Done	o/r	Approv.	Reason Removed
Jan 18, 2004	FINOA	<input type="checkbox"/>	Nov 18, 2003	<input checked="" type="checkbox"/>	154	DONE
Jun 5, 2004	CHECK	<input type="checkbox"/>	00/00/00	<input checked="" type="checkbox"/>	154	EXTEND
Jul 5, 2004	CHECK	<input type="checkbox"/>	00/00/00	<input checked="" type="checkbox"/>	154	DONE
Jul 28, 2004	APPEAL	<input type="checkbox"/>	00/00/00	<input type="checkbox"/>	154	ERROR
Aug 5, 2004	FINOA	<input type="checkbox"/>	Aug 5, 2004	<input checked="" type="checkbox"/>	154	EXTEND
Sep 5, 2004	1STEXT	<input type="checkbox"/>	Sep 3, 2004	<input type="checkbox"/>	019	DB&A
Oct 5, 2004	2NDEXT	<input type="checkbox"/>	Sep 3, 2004	<input type="checkbox"/>	154	DONE
Nov 5, 2004	FINEXT	<input type="checkbox"/>	Oct 28, 2004	<input type="checkbox"/>	154	DONE
Nov 5, 2004	APPEAL	<input type="checkbox"/>	Oct 28, 2004	<input type="checkbox"/>	154	DONE

Correspondence: 1

To Emmett Flynn
 Flynn Produce Ltd.
 1143 Haultain Court
 Mississauga, Ontario
 Canada L4W 2K1

Form Letters Printed: 0

Date Printed	Form Code
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Parts: 1

Part	Contents	Signed Out By	Sign Out Date	Urgent	Req. By	T#/X Ref.	Closed Reason	Box#
001		154	Jul 7, 2005	<input type="checkbox"/>				

Saba's US & Foreign Due Date Report
Due Date Report For the Period Oct 16, 2004 to Oct 18, 2004

<u>Client/Matter #</u>	<u>Client Name</u>	<u>Client/Matter Name</u>	<u>Case Ctry.</u>	<u>Reg'd</u>	<u>Action</u>	<u>Due Date</u>	<u>Instn.</u>	<u>Resp. Assn.</u>	<u>Para.</u>	<u>Comments</u>
000295-0001441	IRI	G.	DN	<input checked="" type="checkbox"/>	CHECK	Oct 16, 2004	<input checked="" type="checkbox"/>	009	238	282
000295-0001483	IRI	G.	CP	<input checked="" type="checkbox"/>	CHECK	Oct 16, 2004	<input checked="" type="checkbox"/>	CR	BC.	JAM
005174-0000073	CI		P	<input checked="" type="checkbox"/>	OARECD	Oct 16, 2004	<input checked="" type="checkbox"/>	009	238	check for Village's evidence
006704-0000350	BI		US	<input checked="" type="checkbox"/>	FILE	Oct 16, 2004	<input checked="" type="checkbox"/>	177	120	
009351-0000229	H	D	IN	<input checked="" type="checkbox"/>	SG	Oct 16, 2004	<input checked="" type="checkbox"/>	SDU	193	120
009351-0000230	H	H	PP	<input checked="" type="checkbox"/>	CLOSE	Oct 16, 2004	<input checked="" type="checkbox"/>	MG	MS	
009351-0000231	H	H	US	<input checked="" type="checkbox"/>	PP	Oct 16, 2004	<input checked="" type="checkbox"/>	HSF	HF	ODL
009351-0000233	H	H	IG	<input checked="" type="checkbox"/>	CLOSE	Oct 16, 2004	<input checked="" type="checkbox"/>	023	296	120
009351-0000234	H	H	R	<input checked="" type="checkbox"/>	PP	Oct 16, 2004	<input checked="" type="checkbox"/>	HSF	TO	
009351-0000235	H	H	ME	<input checked="" type="checkbox"/>	US	Oct 16, 2004	<input checked="" type="checkbox"/>	023	295	
009351-0000236	H	H	S	<input checked="" type="checkbox"/>	PP	Oct 16, 2004	<input checked="" type="checkbox"/>	HSF	SSB	
009351-0000237	H	H	;	<input checked="" type="checkbox"/>	US	Oct 16, 2004	<input checked="" type="checkbox"/>	023	252	
009351-0000238	H	H	ME	<input checked="" type="checkbox"/>	PP	Oct 16, 2004	<input checked="" type="checkbox"/>	HSF	TO	
			PP	<input checked="" type="checkbox"/>	US	Oct 16, 2004	<input checked="" type="checkbox"/>	023	252	
			NG	<input checked="" type="checkbox"/>	PP	Oct 16, 2004	<input checked="" type="checkbox"/>	HSF	ODL	
			PP	<input checked="" type="checkbox"/>	US	Oct 16, 2004	<input checked="" type="checkbox"/>	023	HSF	
			PP	<input checked="" type="checkbox"/>	US	Oct 16, 2004	<input checked="" type="checkbox"/>	023	HSF	

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<u>Client/Matter #</u>	<u>Client Name</u>	<u>Client/Matter Name</u>	<u>Case Ctry.</u>	<u>Req'd</u>	<u>Action</u>	<u>Due Date</u>	<u>Inst.</u>	<u>Resp.</u>	<u>Asst.</u>	<u>Para.</u>	<u>Comments</u>
009351-00000239 H			IBLY	PP	CLOSE	Oct 16, 2004					023
009351-00000394 H			ID	P	PUBLIC	Oct 16, 2004					H-SF
009351-00000405 H			PC	ART19	Oct 16, 2004						023 120 H-SF OCL
009351-00000416 H			D	PC	MPART	Oct 16, 2004					023 165 (EXTENDED)
009351-00000433 H			US	P	PUBLIC	Oct 16, 2004					H-SF ICMM
009369-00000215 S			PC	PC	CHECK	Oct 16, 2004					023 120 H-SF OCL
009371-00000125 T			EA	DN	CHECK	Oct 16, 2004					023 120 MG AN MS check domain name
K			WW	D	EXPIRE	Oct 16, 2004					009 282 006 HH check registration
010750-00000093 O			US	IV	OA3	Oct 16, 2004					005 066 DWML HH
010984-0001030 M			US	P	PUBLIC	Oct 16, 2004					069 120 PCM/C OCL
013922-0000014 Je			PC	PC	ART19	Oct 16, 2004					069 120 PCM/C OCL
013922-0000014 Je			P	PC	EVID	Oct 17, 2004					009 238 PCM/C OCL statutory declaration due
000295-0001352 G			SG	CP	CHECK	Oct 17, 2004					009 238 CR BC follow up
000295-0001420 G			MX	CP							

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<u>Client/Matter #</u>	<u>Client Name</u>	<u>Client Matter Name</u>	<u>Case Ctrv.</u>	<u>Reqd</u>	<u>Action</u>	<u>Due Date</u>	<u>Instl. Resd.</u>	<u>Instl. Resd. Bch. Bef. Due</u>	<u>Lawyer</u>
000374-00000088	Ge		P	<input checked="" type="checkbox"/>	RENEW	Oct 17, 2004	<input checked="" type="checkbox"/>	013	RJP
003041-00000096	Ca Ke		TM	<input checked="" type="checkbox"/>	CHECK	Oct 17, 2004	<input checked="" type="checkbox"/>	006	273 (CANADIAN REGISTRATION)
003041-00000101	Ce Ke		TM	<input checked="" type="checkbox"/>	CHECK	Oct 17, 2004	<input checked="" type="checkbox"/>	006	273 (CANADIAN REGISTRATION)
007685-00000065	Tr A.		NE	<input checked="" type="checkbox"/>	FA	Oct 17, 2004	<input checked="" type="checkbox"/>	193	<i>James</i> / <i>Wolfe</i> 259
007685-00000065	Tr A.		NE	<input checked="" type="checkbox"/>	PP	US	<input checked="" type="checkbox"/>	MG	MS
009369-00000297	S H.		PP	<input checked="" type="checkbox"/>	FILEG	Oct 17, 2004	<input checked="" type="checkbox"/>	193	259 MS
009801-00000009	Cl M		PP	<input checked="" type="checkbox"/>	FREED	Oct 17, 2004	<input checked="" type="checkbox"/>	193	259 MS
010251-00000023	N E		PP	<input checked="" type="checkbox"/>	CLOSE	Oct 17, 2004	<input checked="" type="checkbox"/>	193	258 MS
010251-00000026	N E		PP	<input checked="" type="checkbox"/>	CLOSE	Oct 17, 2004	<input checked="" type="checkbox"/>	193	259 MS
010251-00000027	N E		P	<input checked="" type="checkbox"/>	REMIND	Oct 17, 2004	<input checked="" type="checkbox"/>	193	259 MS
010723-00000076	U B		3...	<input checked="" type="checkbox"/>	CORECT	Oct 17, 2004	<input checked="" type="checkbox"/>	023	285 120 HSF AT DOL To correct the title of invention
010723-00000076	U B		3...	<input checked="" type="checkbox"/>	FORDRA	Oct 17, 2004	<input checked="" type="checkbox"/>	023	285 120 HSF AT DOL
010723-00000076	U E		3...	<input checked="" type="checkbox"/>	POFA	Oct 17, 2004	<input checked="" type="checkbox"/>	023	285 120 HSF AT DOL

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<u>Client Name</u>	<u>Client Ref.</u>	<u>Client/Matter Name</u>	<u>Case</u>	<u>City</u>	<u>Recd</u>	<u>Action</u>	<u>Due Date</u>	<u>Lawyer</u>	<u>Recd</u>	<u>Asst.</u>	<u>Para.</u>	<u>Comments</u>
011026-00000001	E	OZONE PRODUCTION		P	<input checked="" type="checkbox"/>	RENEW	Oct 17, 2004	211	213	AN	1122	
011906-00000094	F			US	<input checked="" type="checkbox"/>	PUBLIC	Oct 17, 2004	211	213	HSF	CPR	
011906-00000094	F			PC	<input checked="" type="checkbox"/>	REOCOP	Oct 17, 2004	211	213	AN	259	
012723-00000111	N			PC	<input checked="" type="checkbox"/>	POFA	Oct 17, 2004	211	213	AN	259	MS
002223-0000136	P		AT)	P	<input checked="" type="checkbox"/>	2NDEXT	Oct 18, 2004	275	275	MG	259	
009351-00000434	H			P	<input checked="" type="checkbox"/>	MPART	Oct 18, 2004	213	296	HSF	FF	
009351-00000501	H			P	<input checked="" type="checkbox"/>	CHECK	Oct 18, 2004	213	296	HSF	FF	
009369-00000301	S			LN	<input checked="" type="checkbox"/>	MPART	Oct 18, 2004	193	259	MG	MS	
010984-0001018	M			P	<input checked="" type="checkbox"/>	ISFEE	Oct 18, 2004	205	066	DWRL	HRH	
011309-00000001	E			P	<input checked="" type="checkbox"/>	1STEXT	Oct 18, 2004	171	259	OL	OL	
011812-00000092	C			P	<input checked="" type="checkbox"/>	INFODS	Oct 18, 2004	217	258	AN	PP	MS
012379-0000018	R			PP	<input checked="" type="checkbox"/>	CHECK	Oct 18, 2004	154	252	TJS	TO	OL
012536-00000002	O			P	<input checked="" type="checkbox"/>	FINEXT	Oct 18, 2004	193	259	MG	PP	MS

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Sabas US & Foreign Due Date Report
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<u>Client/Matter #</u>	<u>Client Name</u>	<u>Client Ref.</u>
012811-00000243	C:	M
013192-00000002	In	H
013581-00000008	NJ	
013774-00000004	B-	W

Printed: Oct 15, 2004